

## SECTION 11.0 DEFINITIONS

Words used in the present tense include the future; words used in the masculine gender include the feminine and neuter; the singular number includes the plural and the plural the singular.

Where terms are not defined, they shall have their ordinarily accepted meanings or such as these By-Laws may imply.

The determination of definitions in question shall lie with the Board of Appeals.

For any terms not defined herein, the definition as found in Webster's Unabridged Dictionary, most recent edition, or as found in the State Building Code of Massachusetts shall be used.

Unless otherwise expressly stated, the terms listed herein shall, for the purpose of these By-Laws, have the meanings indicated.

**Accessory Apartment:** a second dwelling unit in a single-family dwelling authorized pursuant to Section 8.1 of these By-Laws.

**Accessory Structure:** A structure customarily incidental and subordinate to the principal structure that is located on the same lot as the principal structure, except any structure(s) for any agricultural use.

**Accessory Use:** Accessory uses as permitted by these By-Laws are set forth in Section 3.0. An accessory use is one that: is clearly subordinate to, customarily found in association with, and incidental to a principal use; and is located on the same lot as the principal use, except any accessory use for any agricultural purpose.

**Adult Day Care Facility:** A social day care or adult day health facility as those terms are defined by the Massachusetts Department of Elder Affairs.

**Adult Uses:** An establishment, a building or portion thereof, or a use of land having a substantial or significant portion of its business activity, stock in trade, or other materials for sale, rent, distribution, or exhibition, which are distinguished or characterized by their emphasis on depicting, describing, or relating to sexual conduct or sexual excitement as defined in Massachusetts General Laws, Chapter 272, Section 31. Examples of such are listed below:

**Adult Bookstore:** An establishment having as a substantial or significant portion of its stock in trade, books, magazines or other materials which are distinguished or characterized by their emphasis depicting, describing or relating to sexual conduct or sexual excitement as defined in Massachusetts General Laws, Chapter 272, Section 31.

**Adult Club:** An establishment having as a substantial or significant portion of its activities or entertainment a person or persons performing in a state of nudity or distinguished by an emphasis on matter depicting, describing or relating to sexual conduct or sexual excitement as defined in Massachusetts General Laws, Chapter 272, Section 31.

**Adult Entertainment Establishment:** An establishment offering activities or goods or providing services where employees, entertainers or patrons are engaging in nudity, sexual conduct or

sexual excitement as defined in Massachusetts General Laws, Chapter 272, Section 31.

**Adult Motion Picture Theater:** An establishment used for presenting material distinguished by an emphasis on matter depicting, describing, or relating to sexual conduct or sexual excitement as defined in Massachusetts General Laws, Chapter 272, Section 31.

**Adult Paraphernalia Store:** An establishment having as a substantial or significant portion of its stock devices, objects, tools or toys which are distinguished or characterized by their association with sexual activity, including sexual conduct or sexual excitement as defined in Massachusetts General Laws, Chapter 272, Section 31.

**Adult Video Store:** An establishment having as a substantial or significant portion of its stock in trade videos, movies or other film materials which are distinguished or characterized by their emphasis depicting, describing or relating to sexual conduct or sexual excitement as defined in Massachusetts General Laws, Chapter 272, Section 31.

**Substantial or Significant Portion:** This term as used herein shall mean any of the following:

- a. Twenty (20%) percent or more of the business inventory or stock of merchandise for sale, rental, distribution, or exhibition during any period of time; or
- b. Twenty (20%) percent or more of the annual number of gross sales, rentals, or other business transactions; or
- c. Twenty (20%) percent or more of the annual gross business revenue; or
- d. Twenty (20%) percent or more of the hours during which the establishment is open.

**Age-Restricted Housing:** A housing development in which at least one resident of each dwelling unit is fifty-five (55) years or older, and other residents must be over twenty-one (21) years of age but are permitted to be younger than fifty-five (55) years of age.

**Agriculture:** The use of a tract of land not less than five (5) acres in area for agriculture, horticulture, floriculture, viticulture, nurseries, orchards or greenhouses. The definition of agriculture shall include the keeping of livestock on parcels of two (2) acres or more.

**Apartment:** A dwelling unit in either a two-family or multi-family dwelling.

**Arcade:** An indoor recreation facility containing amusement or recreational games such as video or electronic games that contains more than three (3) arcade machines.

**Area (Gross):** Total floor area within a building.

**Area (Net):** The usable area (normally accessible to the public) of each story within a building or portion thereof.

**As-of-Right Siting:** Development which may proceed without the need for a special permit, variance, amendment, waiver, other discretionary approval, or as provided by MGL Ch. 40A section 3. As-of-right development is subject to site plan review and can be reasonably regulated by the building commissioner.

**Assisted Living Facilities:** A structure or structures containing dwelling units for persons in need of assistance with activities of daily living, as defined and regulated by Massachusetts General Laws, Chapter 19D.

**Attached Single-Family Housing:** The construction of houses that share a common side wall. The wall may or may not be the property line of the unit. These “attached single-family houses” may be allowed to be constructed on their own parcel of land with a front and rear yard or may be developed with the land around the unit being owned and maintained by a homeowners or condominium association. These units are commonly referred to as “Townhouses”.

**Basement:** A portion of the building partially underground, but having less than half its clear height below the mean grade of perimeter walls of the building. For the purposes of these By-Laws, a basement shall be considered the first story of a structure (also see the term cellar).

**Basic Code:** The State Building Code of the Commonwealth of Massachusetts, as amended.

**Bed and Breakfast Establishment:** Accommodations with not more than four (4) bedrooms occupied by bed and breakfast guests in which the owner of the establishment resides. Bed and breakfast establishments are intended for guests on intermittent visits, and shall not be used as long-term rental units or apartments. All parking for residents and guests shall be off-street.

**Bodies Politic:** Those institutions of government appointed or elected in the Town of Foxborough.

**Buildable Area:** That area of a lot within which a building can be erected and framed of a combination of any materials, whether portable or fixed, having a roof, to form a structure for the shelter of persons, animals or property. For the purpose of this definition, “roof” shall include an awning or any similar covering, whether or not permanent in nature. The word “building” shall be construed where the context required as though followed by the words “or part or parts thereof” (also see the term structure).

**Building Commissioner:** The officer or other designated authority of the Town charged with the administration and enforcement of the Basic Code and enforcement of these By-Laws

**Business Office:** A building or part thereof, for the transaction of business or the provision of services exclusive of the receipt, sale, storage, or processing of merchandise.

**Cellar:** The portion of the building partially underground, having half or more than half of its clear height below the mean grade of the perimeter walls of the building (also see the term basement).

**Child Care Center:** A facility as defined by Massachusetts General Laws, Chapter 15D, Section 1A.

**Club or Lodge, Private:** Buildings, structures and premises used by a nonprofit social or civic organization, or by an organization catering exclusively to members and their guests for social, civic, recreational, or athletic purposes which are not conducted primarily for gain, and provided there are no vending stands, merchandising, or commercial activities except as may be required generally for the membership and purposes of such organization.

**Commercial Campground:** A facility located on a lot, not less than seventy-five (75) acres in area, intended for use by transient campers in tents or travel trailers, but not mobile homes. The facility may

include accessory uses such as recreation fields and halls, swimming and shower facilities and convenience stores, all of which are intended for the use and convenience of users of the campground, and which are customarily accessory to the operation of a commercial campground.

**Contractor Yard:** A parcel of land utilized by a contractor for the storage of building supplies, and storage and/or maintenance of trucks and other equipment.

**Dormitory:** A building, or portion thereof, where group sleeping accommodations are provided, with or without meals, for persons not members of the same family group, in one room, or in a series of closely related rooms under joint occupancy and single management, as in school or farm dormitories.

**Drive-In Restaurant:** Restaurants which promote the consumption of food or beverages in vehicles parked on the premises.

**Drive-Through Facility:** The use of land, buildings, or structures, or parts thereof, to provide or dispense products or services, either wholly or in part, through an attendant or window or automated machine, to persons remaining in motorized vehicles that are in a designated stacking lane. A drive-through facility may be permitted only as an accessory use, i.e. in combination with other uses such as a bank or financial institution, restaurant, retail store, dry cleaners, laundry, or pharmacy. Despite the above, a drive-through facility does not include a vehicle washing facility, a vacuum cleaning station accessory to a vehicle washing facility, or an automobile/gasoline service station.

#### **Dwellings:**

**Two-Family:** A Building containing two (2) dwelling units with not more than three (3) lodgers or boarders per unit.

**Multi-Family:** A building, or portion thereof containing three (3) or more dwelling units.

**Dwelling Unit:** One or more rooms arranged for the use of one (1) or more individuals living together as a single housekeeping unit, with cooking, living, sanitary and sleeping facilities.

**Educational Use, Nonexempt:** Educational facilities not exempted from regulation by Massachusetts General Laws Chapter 40A, Section 3.

**Essential Services:** Services provided by a public service corporation or by governmental agencies through erection, construction, alteration, or maintenance of public utility facilities and structures necessary to the service of the Town, excluding storage yards, power plants, water filter plants, wireless communication facilities, sewage treatment and refuse facilities. Included are facilities which supply, transmit, distribute, or collect gas, electricity, steam, water, sewer, and communications whether underground or overhead. Facilities necessary for the provision of essential services include, but are not limited to, poles, wires, drains, sewers, pipes, pump stations, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants and other similar equipment in connection therewith.

**Family Day Care, Large or Small:** Any private residence operating a facility as defined in Massachusetts General Laws, Chapter 15D, Section 1A.

**Farm Stand, Nonexempt:** The sale of farm produce including poultry, on a parcel of land which is not being used for agricultural purposes and which is less than five (5) acres in area. A majority of such

products for sale shall be grown or raised on the land on which the facility is located. No slaughtering of livestock other than poultry shall be allowed.

**Frontage:** That distance along a lot line which abuts a street or streets. Access shall only be through or across this legal frontage. The frontage distance shall be contiguous. The required frontage for a corner lot shall be provided on only one (1) street. Frontage shall be calculated from the intersection of the side-yard to the center of the curve radius along a straight line.

**Funeral Establishments:** Facility for the conducting of funerals and related activities such as embalming.

**Height, Building:** The vertical distance from either the sill elevation of a structure without a basement or cellar, or from the finished basement or cellar floor level of a structure with a basement or cellar to, the highest point of the top story in the case of a flat roof, or to the mean height between the top plate and the highest peak in the case of a building with a pitched roof, such highest point of the top story or mean height between the top plate and the highest peak hereinafter being referred to as the "High Point" of the structure.

**Home Occupation, Intensive:** Any gainful employment or occupation of one (1) or more members of the resident family that is clearly secondary or accessory to the primary residential use of the principal dwelling. Intensive home occupations include but are not limited to the following: work facilities for artists and dressmakers, tailors and other similar uses; home crafts, antique shops, beauty parlors, and other similar activities; professional office facility provided that no retail or wholesale transactions are made on the premises; school of special needs education whose class does not exceed four (4) pupils at any time unless otherwise exempt; dance studios or schools, musical instruction or other similar activities. See Section 3.2.2 of these By-Laws.

**Home Occupation, Non-intensive:** Any gainful employment or occupation of one (1) or more members of the resident family that is clearly secondary or accessory to the primary residential use of the principal dwelling, as limited by Section 3.2.3 of these By-Laws.

**Hotel or Motel:** A building or buildings intended and designed for transient, overnight or extended occupancy, divided into separate units within the same building with or without a public dining facility.

**Innovative Residential Development:** Alternative land development techniques that encourage higher quality development, create improved living environments, preserve unique site features, and provide services more efficiently.

**Junk:** Any scrap, waste, reclaimable material or debris, whether or not stored or used in conjunction with dismantling, processing, salvage, storage, baling, disposal or other use or disposition. Junk includes, but is not limited to, vehicles, tires, vehicle parts, machinery, equipment, paper, rags, metal, glass, building materials, household appliances, brush, wood, and lumber.

**Junk Yard:** Any area, lot, land, parcel, building or structure or part thereof used for the storage, collection, processing, purchase, sale or abandonment of junk, or two (2) or more unregistered or inoperable motor vehicles.

**Kennel, Commercial:** A pack or collection of dogs, cats, or other domestic animals on a single premise maintained for sale, commercial breeding, boarding, grooming, training, hunting, or for any other

commercial purposes, and including any shop where dogs are for sale.

**Landscape/Building Supply Yards:** A parcel of land used for the storage and sale of landscape and/or building materials including but not limited to mulch, sand, gravel, loam, stone, bricks, lumber, pipe, concrete, or other materials used for landscape or building construction. These materials may be stored indoor or outside.

**Large-Scale Ground-Mounted Solar Photovoltaic Installation:** A solar photovoltaic system that is structurally mounted on the ground and is not roof-mounted, and has a minimum nameplate capacity of 250 kW DC.

**Lodging/Boarding House:** Any structure used for the lodging of more than three (3) individuals and where cooking or sanitary facilities may be provided.

**Lot:** An area of land in one ownership with definite plan and used or set aside and available for use as the site of one or more structures or for any other definitive purpose.

**Lot Area:** The horizontal area of a lot, not including any area in a public or private street open for public use.

**Lot Coverage:** That percentage equal to the area of a lot covered by man-made materials such as structures, asphalt and concrete divided by the total lot area.

**Lot Line:** A line dividing one lot from another, or from a street.

**Mobile Home:** A dwelling unit built on a chassis and containing complete electrical, plumbing and sanitary facilities and designed to be installed on a temporary or permanent foundation for permanent living quarters.

**Motor Vehicle Fuel Facility:** Any structure whose primary purpose is the storage and sale of petroleum products or other fuels for motor vehicles and/or where minor repairs to motor vehicles are made within a structure.

**Motor Vehicle Repair Shop:** A structure in which the general business of repairing motor vehicles is conducted.

**Municipal Facilities:** Facilities owned or operated by the Town of Foxborough and used exclusively for municipal or other public purposes.

**Municipal Recreation Facility:** Land, including accessory structures, owned or operated by the Town of Foxborough that is used for one or more of the following uses: a golf course, riding stable, playgrounds, playing fields, fitness trails, a swimming pool, volleyball, bocce, tennis or basketball court(s), or other similar recreation facilities. No indoor or outdoor active recreation area or parking for same shall be located any nearer the lot line than the minimum building setback.

**Nursing or Convalescent Home:** Any building with sleeping rooms where persons are housed or lodged and furnished with meals and nursing care for hire.

**On-Site Ground-Mounted Solar Photovoltaic Installation:** A solar photovoltaic installation that is structurally mounted on the ground, is accessory, and is not roof-mounted. The power produced is typically utilized primarily by uses in the immediate vicinity and/or has less nameplate capacity than 250 kW DC.

**Parking Lot:** A paved area, designed and constructed to the standards found in Section 7.0 of these By-Laws, the purpose of which is to provide off-street, vehicular parking. Parking lots may be a primary or accessory use of a parcel pursuant to Section 4.0, Table of Use Regulations.

**Parties in Interest:** As used in these By-Laws shall have the meaning as provided in Massachusetts General Laws, Chapter 40A, Section 11.

**Person:** Every natural person or other legal entity.

**Rated Nameplate Capacity:** The maximum rated output of electric power production of the Photovoltaic system in Direct Current (DC).

**Reconstruction:** The demolition of a structure and the rebuilding of a new structure on the same lot.

**Residential Garage:** a detached accessory structure to a single or two-family dwelling of which the primary purpose is to store motor vehicles. No commercial activities shall occur within these structures unless authorized by these By-Laws.

**Residential Storage Structure:** a detached structure accessory to a single or two-family dwelling which does not exceed two hundred (200) square feet in gross area.

**Restaurant:** An establishment where food and drink are prepared, served, and consumed primarily within the principal building. Food and drink may also be served and consumed outdoors on patios and sidewalks as well as packaged for take-out orders. The term "restaurant" shall not include "drive-in restaurant."

**Retail Establishment:** All lands and buildings that are used for display and sale purposes involving stocks of goods, wares or merchandise incidental to such purposes and accessible to the public, including, among others, retail stores, shops, and salesrooms.

**Solar Photovoltaic Array:** An arrangement of solar photovoltaic panels.

**Story:** The portion of a building included between the upper surface of a floor and upper surface of the floor or roof next above, including basements.

**Street or Way:** A public way or way that the Town Clerk certifies is maintained and used as a public way, or a way shown on a definitive plan, approved and endorsed in accordance with the Subdivision Control Law, or a way in existence when the Subdivision Control Law became effective in the Town of Foxborough, which in the opinion of the Planning Board has sufficient width, suitable grades, and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land abutting thereon or served thereby, and for the installation of municipal services to serve such land and the buildings erected or to be erected thereon.

**Structure:** A combination of materials assembled at a fixed location to give support or shelter, and as

further defined in the Basic Code. The word “structure” shall be construed, where the context requires, as though followed by the words “or part or parts thereof”.

**Temporary Parking Lot:** An area, whether paved or unpaved, which in the opinion of the Special Permit Granting Authority, is suitable for providing off-street, vehicular parking. Temporary parking lots may be a primary or accessory use of a parcel pursuant to Table 3–1.

**Travel Trailer:** A vehicular, portable structure built on a chassis and designed to be used for temporary occupancy for travel, recreational or vacation use. It shall not be designed to be installed on a permanent or temporary foundation.

**Truck Terminal/General Commodity/Public Warehouse:** A facility/use whose primary function is to provide for the distribution of a wide variety of merchandise, goods and/or other products via trucks. This shall include those facilities designed to store products in preparation for shipping and where those products are generally not made available for retail sale. The storage or parking of tractor-trailers, trucks or trailers as a primary use.

**Water Resource Protection Overlay District:** The following definitions shall apply within the WRPOD:

**Aquifer:** Geologic formation composed of rock, sand or gravel that contains significant amounts of potentially recoverable water.

**Body of Water:** A body of water shall be any open body of water, capable of supporting an indigenous fish population, either naturally occurring or man-made by impoundment. The body of water shall be existence prior to May 14, 1984 unless it is created for the sole intent and purpose for use as a source of potable water. It is never without standing water due to natural causes, except during periods of extended drought. For purposes of this definition, extended drought shall mean any period of four (4) or more months during which the average rainfall for each is fifty (50%) percent or less of the ten (10) year average for that same month. Basins or lagoons which are part of wastewater treatment plants shall not be considered bodies of water, nor shall swimming pools or other impervious man-made retention basins.

**DEP:** The Massachusetts Department of Environmental Protection.

**Discharge:** The accidental or intentional spilling, leaking, pumping, pouring, emitting, emptying, or dumping of toxic or hazardous materials upon or into any land or waters in the Town. Discharge includes, without limitations, leakage of such materials from failed or discarded containers or storage systems, and disposal of such materials into an on-site sewage disposal system, drywell, catch basin, or unapproved landfill.

**Design Flow:** The quantity of sanitary sewage, expressed in gallons per day (gpd), for which a system must be designed in accordance with 310 CMR 15.203 (Title 5).

**Future Potential Aquifers:** The land area outside the limits of Zone II and Zone III in the WRPOD which contains stratified drift aquifer deposits with a saturated thickness greater than ten (10) feet. These areas may, upon further test well exploration, prove suitable for the development of municipal water supply wells. Therefore, the regulations set forth in Section 9.4 of these By-Laws pertaining to Zone II areas also apply to Future Potential Aquifer Areas.



**Groundwater:** All the water found beneath the surface of the ground, including the slowly moving subsurface water present in aquifers and recharge areas.

**Impervious Surface:** Material or structure on, above, or below ground that does not allow precipitation or surface water to penetrate directly into the soil.

**Leachable Waste:** Waste materials including solid waste, sludge, and agricultural wastes that are capable of releasing water-borne contaminants to surrounding environment.

**Mining of Land:** The removal or relocation of geologic materials such as topsoil, sand, gravel, metallic ores, or bedrock.

**Primary Resource Areas:** Consists of Zone II, Future Potential Aquifer areas, and two hundred fifty (250) foot setback areas from body of water.

**Publicly Owned Treatment Works (POTW):** Municipal wastewater treatment facility, including any device or system used in the storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes of a liquid nature, which is owned by a public entity. A POTW includes any sewers, pipes, or other conveyances only if they convey wastewater to a POTW providing treatment.

**Recharge Areas:** Areas that collect precipitation or surface water and carry it to aquifers. Recharge areas may include areas designated as Zone I, Zone II or Zone III.

**Solid Waste:** Useless, unwanted, or discarded solid material with insufficient liquid content to be free flowing. This includes, but is not limited to, rubbish, garbage, scrap materials, junk, refuse, inert fill material, and landscape refuse.

**Toxic or Hazardous Material:** Any substance or mixture of physical, chemical, or infectious characteristics posing a significant, actual, or potential hazard to water supplies or other hazards to human health if such substance or mixture were discharged to land or water of the Town of Foxborough. Toxic or hazardous materials include, without limitation, synthetic organic chemicals, petroleum products, heavy metals, radioactive or infectious wastes, acids and alkalis, and all substances defined as Toxic or hazardous under Massachusetts General Laws, Chapters 21C and 21E, and 310 CMR 30.00, and also include such products as solvents and thinners in quantities greater than normal household use.

**Toxic or Hazardous Waste:** As defined in 310 CMR 30.00.

**Two Hundred Fifty Foot Setback Area from a Body of Water:** An area consisting of a Body of Water and a surrounding protective setback, extending two hundred fifty (250) feet from the edge of a Body of Water.

**Upland Area:** That area exclusive of wetlands and floodplains as defined within the Wetlands Protection Act (Massachusetts General Laws, Chapter 131, Section 40, as amended).

**Water Resource Protection Overlay District (WRPOD):** The District consists of aquifer recharge areas for existing, proven and future well sites (Zone II and Zone III), future potential

aquifer areas, bodies of water, whether natural or manmade, each to the seasonal high water line and a surrounding protective setback, extending two hundred fifty (250) feet from the edge of a body of water.

**Zone II:** That area of an aquifer which contributes water to a well under the most severe recharge and pumping conditions that can be realistically anticipated (180 days pumping at safe yield with no recharge from precipitation). It is bounded by the groundwater divides which result from pumping the well and by the contact of the edge of the aquifer with less permeable materials such as till and bedrock. At some locations, surface water features may represent recharge boundaries.

**Zone III:** That land area beyond the area of Zone II from which surface water and groundwater drain into Zone II. The surface water drainage divides as determined by topography will be used to delineate Zone III. In some locations, where surface and groundwater are not coincident Zone III shall consist of both the surface drainage and the groundwater drainage areas.

**Wellness and Recreation Center:** A facility located on a lot containing not less than eighteen (18) acres offered for use by the public for general wellness and recreation which may include a pool facility and any other indoor and outdoor sports, recreation and athletic use, day camps, and arts and humanities and uses incidental thereto, but excluding those uses that fall under Section 3.0.

**Yard:** An open space on a lot with a building, extending along the entire length of a front, rear, or side lot line.